

**United States District Court**  
**EASTERN DISTRICT OF TEXAS**  
**SHERMAN DIVISION**

HUAWEI TECHNOLOGIES CO., LTD.,	§	
and FUTUREWEI TECHNOLOGIES,	§	
INC.	§	
	§	Civil Action No. 4:17-CV-00893
v.	§	Judge Mazzant
	§	
YIREN RONNIE HUANG, and CNEX	§	
LABS, INC.	§	

**MEMORANDUM OPINION AND ORDER**

Pending before the Court is Defendants CNEX Labs, Inc. and Yiren “Ronnie” Huang’s Motion to Dismiss Plaintiffs’ Second Amended Complaint for Failure to State a Claim Under Rule 12(b)(6) (Dkt. #63). Having considered the motion and the relevant pleadings, the Court finds that Defendants’ motion should be denied.

**BACKGROUND**

Plaintiff Huawei Technologies Co., Ltd. (“Huawei”) is a multinational networking and telecommunications equipment and services company headquartered in China. Plaintiff Futurewei Technologies, Inc. (“Futurewei”) is a subsidiary of Huawei with several offices throughout the United States. In December 2010, Futurewei offered Yiren “Ronnie” Huang (“Huang”) employment as a Principal Engineer for its solid-state drive (“SSD”) storage group, to assist in development and implementation of Advance Computing Network (“ACN”), non-volatile memory express (“NVMe”), and SSD technology. Huang accepted the offer in January 2011. At the Futurewei new hire orientation, Huang signed an employment contract that contained provisions relating to non-disclosure, non-competition, and non-solicitation.

Based on Huang’s job responsibilities, Plaintiffs contend that Huang had access to confidential, proprietary, and trade secret information. On May 31, 2013, Huang ended his

employment with Futurewei. On June 3, 2013, Huang, along with others, incorporated CNEX Labs, Inc. (“CNEX”). Plaintiffs allege, among other things, that Huang incorporated CNEX to compete directly with Plaintiffs, Huang is using Plaintiffs’ confidential, proprietary, and trade secret information to develop and improve SSD technology and NVMe related technology for CNEX, and further that Huang and CNEX are improperly soliciting employees away from Plaintiffs. Additionally, Plaintiffs allege that Huang started to engage in this behavior informally prior to leaving Futurewei. Plaintiffs further contend that Huang and CNEX began filing patent applications in June 2013, using the information that Huang obtained through his employment with Futurewei. Finally, and at issue in this motion, Plaintiffs assert that Defendants interfered with potential business contacts by allowing and encouraging Huang to violate his employment contract.

Plaintiffs filed suit in the Eastern District of Texas on December 28, 2017, against Defendants seeking declaratory judgement and alleging a variety of causes of action including tortious interference with prospective business relations and unfair competition under the Lanham Act (Dkt. #1). In response to this Complaint, Defendants filed their Initial Motion to Dismiss on February 2, 2018 (Dkt. #14). Plaintiffs filed a response (Dkt. #22), but also filed Plaintiffs’ First Amended Complaint (Dkt. #27). In response to the First Amended Complaint, on March 9, 2018, Defendants filed a Motion to Dismiss (Dkt. #34).

On April 25, 2018, the Court issued a Memorandum Opinion and Order granting Plaintiffs leave to file an amended complaint to address the deficiencies in Count 13 tortious interference with prospective business relation and Count 21 unfair competition under the Lanham Act (Dkt. #59). Subsequently, Plaintiffs filed their Second Amended Complaint on May 9, 2018 (Dkt. #61). In response to the Second Amended Complaint, on May 24, 2018, Defendants filed

the present Motion to Dismiss (Dkt. #63). Plaintiffs filed a response (Dkt. #68), Defendants filed a reply (Dkt. #71), and Plaintiffs filed a sur-reply (Dkt. #72).

### **LEGAL STANDARD**

The Federal Rules of Civil Procedure require that each claim in a complaint include a “short and plain statement . . . showing that the pleader is entitled to relief.” FED. R. CIV. P. 8(a)(2). Each claim must include enough factual allegations “to raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

A Rule 12(b)(6) motion allows a party to move for dismissal of an action when the complaint fails to state a claim upon which relief can be granted. FED. R. CIV. P. 12(b)(6). When considering a motion to dismiss under Rule 12(b)(6), the Court must accept as true all well-pleaded facts in plaintiff’s complaint and view those facts in the light most favorable to the plaintiff. *Bowlby v. City of Aberdeen*, 681 F.3d 215, 219 (5th Cir. 2012). The Court may consider “the complaint, any documents attached to the complaint, and any documents attached to the motion to dismiss that are central to the claim and referenced by the complaint.” *Lone Star Fund V (U.S.), L.P. v. Barclays Bank PLC*, 594 F.3d 383, 387 (5th Cir. 2010). The Court must then determine whether the complaint states a claim for relief that is plausible on its face. “‘A claim has facial plausibility when the plaintiff pleads factual content that allows the [C]ourt to draw the reasonable inference that the defendant is liable for the misconduct alleged.’” *Gonzalez v. Kay*, 577 F.3d 600, 603 (5th Cir. 2009) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). “But where the well-pleaded facts do not permit the [C]ourt to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not ‘show[n]’—‘that the pleader is entitled to relief.’” *Iqbal*, 556 U.S. at 679 (quoting FED. R. CIV. P. 8(a)(2)).

In *Iqbal*, the Supreme Court established a two-step approach for assessing the sufficiency of a complaint in the context of a Rule 12(b)(6) motion. First, the Court should identify and disregard conclusory allegations, for they are “not entitled to the assumption of truth.” *Iqbal*, 556 U.S. at 664. Second, the Court “consider[s] the factual allegations in [the complaint] to determine if they plausibly suggest an entitlement to relief.” *Id.* “This standard ‘simply calls for enough facts to raise a reasonable expectation that discovery will reveal evidence of the necessary claims or elements.’” *Morgan v. Hubert*, 335 F. App’x 466, 470 (5th Cir. 2009) (citation omitted). This evaluation will “be a context-specific task that requires the reviewing [C]ourt to draw on its judicial experience and common sense.” *Iqbal*, 556 U.S. at 679.

Thus, “[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Id.* at 678 (quoting *Twombly*, 550 U.S. at 570).

### ANALYSIS

After reviewing the current complaint, the motion to dismiss, the response, the reply, and the sur-reply, the Court finds that the Plaintiffs have stated plausible claims for purposes of defeating a Rule 12(b)(6) motion to dismiss.

### CONCLUSION

It is therefore **ORDERED** that Defendants CNEX Labs, Inc. and Yiren “Ronnie” Huang’s Motion to Dismiss Plaintiffs’ Second Amended Complaint for Failure to State a Claim Under Rule 12(b)(6) (“Motion to Dismiss”) (Dkt. #63) is hereby **DENIED**.

**SIGNED this 2nd day of October, 2018.**

  
AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE